

POLICY NUMBER: 205.18
DIVISION: Environmental Public Health
POLICY TITLE: Indoor Air Health Nuisances – Investigation and Enforcement
AGENCY: Lincoln-Lancaster County Health Department (LLCHD)
AUTHORITY: Board of Health
DRAFTED:
APPROVED:
REVISED:
REVIEWED:

POLICY STATEMENT:

Whenever the Health Director finds that a structure, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin- or rat-infested, contains filth and contamination, or is a nuisance, such structure shall be unfit for human occupancy and the Health Director shall make such finding to the code official. A combination of the following factors may be indicative that a dwelling is unfit for human occupancy or habitation:

- The complainant has indicated that the indoor air health nuisance has caused him/her to experience detrimental health impacts;
- The complainant has indicated that the detrimental health impacts are exacerbated by an underlying medical condition (i.e. respiratory disease or ailment, immunodeficiency, etc.);
- The extent of the indoor air health nuisance is such that staff determines that further occupancy is detrimental to, or endangers the health of the occupant(s) of the dwelling.

The purpose of this policy is to ensure:

- 1) That complaints of indoor air health nuisances are addressed in a fair and consistent manner;
- 2) That indoor air health nuisances are resolved, and that a return to compliance is achieved in a fair, consistent, and timely manner;
- 3) That investigating staff properly document all relevant information.

PROCEDURES:**I. Complaint Intake and Determination of Health Nuisance Conditions**

A. Department staff shall attempt gather and document the following information:

1. The name and contact information for the complainant;
2. The date, time, and location of the alleged nuisance and/or violation;
3. A brief description of the nature and apparent cause of the alleged nuisance; and
4. All health impacts described by the complainant. If the complainant is experiencing any detrimental health effects, staff should advise the complainant to contact his or her medical care provider, as appropriate. If the complainant is unable to speak or breathe, staff shall proceed as follows:
 - a. Record the complainant's telephone number via caller identification;
 - b. Inform the complainant that staff will transfer his/her call to emergency services, and advise the complainant to remain on the line during the transfer;
 - c. Advise the complainant to call '911' if the call transfer fails;
 - d. Advise the complainant to vacate the area and seek clean air, if feasible; and
 - e. Transfer the call to emergency services. If the transfer fails, staff shall call 911 and inform emergency services of the call, and the concerns identified.

- B. If the complainant is a homeowner and is calling about air quality in his or her own private residence, staff should provide general technical assistance to owner, and should provide referral to other agencies or resources, as appropriate.
- C. If the complainant is an employee or customer and is calling about air quality conditions in a business establishment, staff should investigate the complaint pursuant to the procedures set forth in Policy Number 205.19 (Health and Safety Hazards – Investigation and Enforcement).
- D. If the complainant is a tenant in a non-owner occupied dwelling unit, and alleges that air quality conditions present in the dwelling constitute an indoor air health nuisance, staff shall proceed as follows:
 - 1. The following are considered indoor air health nuisance conditions that may warrant action:
 - a. The presence of visible mold growth resulting from inadequate building maintenance or repairs, or resulting from inadequate ventilation.
 - b. The presence of air pollutants (e.g. carbon monoxide, ammonia, hydrogen sulfide, VOCs, etc.) in such quantities that it may tend to endanger occupant health, and that are the result of inadequate building maintenance or repairs, inadequate ventilation, or are the result of activities occurring on the same property.
 - 2. The following conditions are not typically considered indoor air health nuisances:
 - a. The presence of visible mold growth resulting from poor housekeeping (i.e. lack of routine cleaning).
 - b. The presence of offensive odors that are the result of normal living activities.
- E. Prior to investigating a complaint of an alleged nuisance, staff should check the electronic complaint tracking system to determine if any prior complaints have been filed at the provided location.

II. **Initial Complaint Response and Investigation**

- A. Within 1 working day of receiving a complaint, staff shall open a new complaint case in the electronic complaint tracking system (unless an open case already exists for the same person/company and property), and enter all relevant information.
- B. Within 1 working day of receiving a complaint, an initial complaint letter (see Attachment A) shall be generated and sent to the property owner/registered agent informing him/her that the Department has received a complaint of an indoor air health nuisance, and that the property owner/registered agent has 5 days to abate the nuisance condition. The letter shall also state that the property owner/registered agent has 30 days to investigate, determine, and correct the root cause of the nuisance condition.
- C. After the 5-day notification period, staff shall contact the occupant to determine if the nuisance condition has been corrected.
 - 1. If the property owner/registered agent corrected the nuisance condition within the 5-day period, proceed with the steps in item **V. Documentation**.
 - 2. If the property owner/registered agent failed to correct the problem within the 5-day period, then staff shall schedule an inspection with the complainant to verify the allegations. Staff should bring the following supplies/equipment when conducting an inspection or investigation:
 - a. Department-issued identification and business card(s);

- b. Writing instrument, clipboard, and all necessary forms and fact sheets, including a 'Sanitation and Nuisance Inspection Form' (Attachment B);
 - c. Any personal protective equipment (PPE) deemed necessary based on information gathered from the complainant; and
 - d. Any air monitoring equipment deemed necessary (e.g. portable monitors for carbon monoxide, hydrogen sulfide, ammonia, VOCs, etc.);
 - e. Digital camera and/or video recorder; and
 - f. Cell phone.
3. Upon arriving at the location of the alleged nuisance, staff shall:
- a. Show his/her identification to the occupant;
 - b. Provide the occupant with a business card;
 - c. Investigate the source of the alleged nuisance; and
 - d. Complete a 'Sanitation and Nuisance Inspection Form' (Attachment B).

III. Complaint Investigation – Alleged Condition Is Not Observed

- A. For investigations of complaints regarding health nuisance conditions in a non-owner occupied dwelling unit, if staff determine that conditions observed do not constitute an indoor air health nuisance, staff shall inform the occupant that none of the conditions observed constitute a health nuisance condition, and thus do not warrant action by the Health Director, or remediation by the property owner/registered agent. If the presence of visible mold or air pollutants is determined to be the result of unsanitary conditions that do not appear to be the responsibility of the property owner/manager, staff should inform the occupant of their responsibility to maintain a sanitary residence.
- B. Upon returning to the office, staff shall proceed to item **V. Documentation**.

IV. Complaint Investigation – Alleged Condition Is Observed

- A. If staff observe conditions that constitute a health nuisance, staff shall proceed as follows:
- 1. Advise the occupant that a health nuisance condition has been identified.
 - 2. Gather and document the following information:
 - a. If contact is made with the property owner/registered agent, obtain and record:
 - i. Owner/registered agent name and phone number.
 - ii. If the property is rented, the name and phone number of the primary occupant.
 - b. If contact is made with an occupant, obtain and record:
 - i. The occupant's name and phone number.
 - ii. The name and phone number of the property owner/registered agent.
 - c. The date and time of attempted contact with the owner/registered agent or occupant; and
 - d. Results of all observations made during the course of the investigation, including the presence of an indoor air health nuisance, as well as the source and/or cause of the nuisance.

3. Determine whether the identified nuisance renders the dwelling unfit for human occupancy or habitation and proceed as follows:
 - a. If it is determined that the dwelling is unfit for human occupancy/habitation, staff shall:
 - i. Make a recommendation to the Building and Safety Department that the dwelling be placarded to prohibit occupancy in accordance with LMC 21.05.180; and
 - ii. Proceed to item **V. Documentation.**
 - b. If it is determined that the conditions present in the dwelling constitute a nuisance condition, but that the dwelling is still fit for human occupancy, then staff shall:
 - i. Refer the case to the Building and Safety Department if conditions that are conducive to creating a nuisance condition may be remedied through their authority;
 - ii. Leave the complaint open in the electronic complaint tracking system until such time that the Building and Safety Department determines that the necessary repairs have been made, as determined via a follow-up inspection during the 30-day corrective action period; and
 - iii. Once notified by the Building and Safety Department that the necessary repairs have been made to correct the conditions conducive to creating a nuisance, proceed to item **V. Documentation.**

V. Documentation

- A. When opening or updating a complaint case in the electronic complaint tracking system, staff shall:
 1. Document all information required under item IV.A.2.
 2. Document all communication (in-person, phone, e-mail, or written) that takes place during the investigation, as well as any follow-up communication that may take place with the complainant and/or the alleged violator.
 3. Upload any photos taken, as well as scanned copies of any letters or inspection reports that are issued.
- B. If the initial complaint investigation indicates that the alleged condition(s) was not present, or if the alleged condition(s) was resolved, then the investigating staff shall close the case.

Attachment A



LINCOLN-LANCASTER COUNTY
HEALTH DEPARTMENT
3140 "N" Street, Lincoln, NE 68510-1514
402-441-8000 TDD: 402-441-6284 fax: 402-441-6229



7/27/2015

CERTIFIED

JOHN Q PUBLIC
123 ANY STREET
LINCOLN, NE

Dear JOHN Q PUBLIC:

This letter is to notify you that the Lincoln-Lancaster County Health Department (LLCHD) recently received a complaint regarding mold at 1234 XX LINCOLN, NE

This letter is to inform you that if mold is present as described in the complaint, the conditions are detrimental to human health and therefore constitute a violation of the Lincoln Municipal Code (LMC) 21 Lincoln Housing Code Chapter 21.05 Property Maintenance Code of the City of Lincoln, Section 240, Nuisance.

"Building or portions thereof in which there exists any nuisance as defined in this code are substandard buildings." Under Chapter 21.05 of the Housing Code, the definition of nuisance includes:

"b. Whatever is dangerous to human life, or is detrimental to health, as determined by the health officer."

"g. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer." The presence of mold in indoor environments is considered detrimental to health and constitutes a nuisance condition.

As owner, you must abate the nuisance condition (mold) by taking the following actions:

- 1) Eliminate the nuisance condition (mold) within 5 days. Upon completing this action, you must notify the Health Department by contacting me at (402) 441- 8040 or kking@lincoln.ne.gov
- 2) Investigate the root cause of the mold problem and make repairs to eliminate the source of the nuisance condition that created the mold problem within 30 days. Again, upon completion of this work, you must notify me.

If additional complaints are received, the LLCHD may pursue enforcement action through the Lincoln Building and Safety Office.

Sincerely,

A handwritten signature in black ink that reads "Kathy King".

Kathy King, REHS
Environmental Health Specialist II
Air Quality Program

CC: John Boies Building and Safety



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HL_C_Air_Mold_Letter - 7/27/2015

Attachment A (cont'd.)

Nuisance Conditions Reported:

1 - IAQ Mold

Reported Date: 7/27/15

visible molds on master bedroom ceiling due to roof leak

CORRECTIVE ACTION: As owner, you must :
remove visible molds within 5 days.
Investigate the cause of the mold problem, and make repairs in order to
eliminate conditions conducive to mold within 30 days, in order to avoid
possible enforcement action.



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Attachment B



Lincoln-Lancaster County Health Department
Environmental Health Division
3140 "N" Street • Lincoln, NE 68510
402-441-8040 • 402-441-3890 (Fax)

Sanitation and Nuisance Inspection at: _____

Owner Information

Name
Address
Phone

Tenant Information

Name
Address
Phone

Health Officer Findings:

Unsafe Structure & Equipment (LMC 21.05.160 Subsection 108.1.3). The following unsanitary conditions were identified:

- ☐ Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house.
- ☐ Lack of adequate heating facilities.
- ☐ Lack of, or improper operation of, required ventilating equipment.
- ☐ Dampness of habitable rooms.
- ☐ Infestation of insects, vermin or rodents as determined by the Health Officer.
- ☐ Contains filth and contamination.
- ☐ Lack of adequate garbage and rubbish storage and removal facilities as determined by the Health Officer.
- ☐ Other/Comments _____

Nuisance (LMC 21.05). The following nuisance conditions were identified:

- ☐ Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
- ☐ Whatever is dangerous to human life or is detrimental to health, as determined by the Health Officer. (See Comments)
- ☐ Insufficient ventilation or illumination.
- ☐ Inadequate or unsanitary sewage or plumbing facilities.
- ☐ Uncleanliness, as determined by the Health Officer. (See Comments)
- ☐ Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings, as determined by the Health Officer.
- ☐ Any building, structure, or premises which as a result of vandalism, neglect, inadequate maintenance, or lack of repair is permitted to become so blighted, deteriorated or dilapidated that such building or structure is detrimental to or endangers the health, safety, or welfare of the public or occupants thereof.
- ☐ Comments _____

Determination by Health Officer:

Due to the extent of the inadequate sanitation or nuisance conditions, as an official representative of the Health Director of the Lincoln-Lancaster County Health Department, I recommend that the Building Official deem this building to be substandard:

- ☐ **Yes** ☐ **No.** If yes is checked, as a substandard building, in accord with LMC 21.05, I recommend the building be:
- ☐ repaired; ☐ demolished ☐ vacated, secured, and maintained against entry until repaired or demolished due to conditions which are immediately dangerous to life, limb, property, or safety of the public or of the occupants.

Comments: _____

 Health Director Representative

_____/_____/_____
 Date

_____/_____/_____
 Time a.m. / p.m.

White - Building and Safety

Yellow - File

Pink - Property Owner